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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,323	12/19/2003	Steven Miller	1524.01	5776
21901	7590	08/17/2005	EXAMINER	
SMITH & HOPEN PA 15950 BAY VISTA DRIVE SUITE 220 CLEARWATER, FL 33760			BRASE, SANDRA L	
			ART UNIT	PAPER NUMBER
			2852	

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/742,323	MILLER, STEVEN	
	Examiner Sandra L. Brase	Art Unit 2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 and 21-72 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13, 19 and 20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species I (claims 1-13, 19 and 20) in the reply filed on 6/10/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 14-18 and 21-72 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in reply filed 6/10/05.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

4. Claims 8, 9, 11 and 13 are objected to because of the following informalities.  
Appropriate correction is required.

In claim 8, line 5, "forth recess" should be changed to "second outboard recess".

In claim 9, line 3, “second leading end recess” should be changed to “first leading end recess”.

In claim 9, line 5, “third leading end recess” should be changed to “second leading end recess”.

In claim 11, line 2, “first recess” should be changed to “first outboard recess”.

In claim 11, line 4, “second leading end recess” should be changed to “first leading end recess”.

In claim 11, line 5, “third leading end recess” should be changed to “second leading end recess”.

In claim 11, line 7, “end.” should be changed to “end;”.

In claim 13, line 2, “first recess” should be changed to “first leading end recess”.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Daniels (US 6,904,248).

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7. Daniels (...248) discloses a toner cartridge adapted to fit within a toner cartridge-receiving cavity of a printer, comprising a waste bin (2) positioned at a leading end of the toner cartridge; a hopper (3) connected to the waste bin at a trailing end of the waste bin; the waste bin and the hopper being fixedly interconnected to one another and being held against movement relative to one another when fully installed with the toner cartridge receiving cavity (col. 4, lines 7-8; and figure 1); and the waste bin having a leading end sculpted to mate with the cartridge receiving cavity of a plurality of printer families (abstract; col. 1, line 51 – col. 2, line 19; col. 4, line 16 – col. 5, line 25; col. 5, line 64 – col. 6, line 23; and col. 6, line 64 – col. 7, line 33); whereby the toner cartridge fits differing printer models distributed by differing manufacturers (col. 2, lines 14-19; and col. 6, line 64 – col. 7, line 33). The toner cartridge comprising the leading end of the waste bin having a hollow structure defined by a vertical leading wall, a pair of upstanding sidewalls, a horizontal, flat top wall, a bottom wall, and an open trailing end in open communication with the hopper; and the vertical leading wall having a traverse extent less than a traverse extent of the open trailing end; whereby the leading end mates with a printer having a toner cartridge-receiving cavity having a relatively wide opening that tapers down to a relatively narrow opening (figures 1-3B).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels (US 6,904,248).

10. Daniels (...248) discloses the features mentioned previously, but does not disclose the claimed specific recesses and corresponding protrusions. Daniels (...248) disclose recesses made in the toner cartridge so as to match with corresponding protrusions, where the size and orientation of the recesses will vary according to the type of cartridge as well as the future use of the cartridge (col. 2, line 22 – col. 3, line 18; and col. 3, lines 62 – col. 4, line 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the claimed specific recesses and corresponding protrusions, since, as disclosed by Daniels (...248), the size and orientation of the recesses will vary according to the type of cartridge as well as the future use of the cartridge.

11. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels (US 6,904,248) in view of Huss et al. (US 6,018,637).

12. Daniels (...248) discloses the features mentioned previously, but does not disclose the claimed torque tab and torque tab receptacle. Huss et al. (...637) disclose a toner cartridge including a hopper (26) and a waste bin (28), where a hopper tab receptacle is formed in the waste bin and the hopper tab receptacle is adapted to vertically receive a hopper torque tab formed in the hopper when the waste bin is connected to the hopper, whereby the hopper is keyed to the waste bin when the hopper torque tab is received within the hopper torque tab receptacle, thereby preventing lateral movement between the hopper and the waste bin when a

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driving force is applied to the hopper, where the hopper torque tab receptacle has a radius formed in its peripheral edges to facilitate entry of the hopper torque tab into the hopper torque tab receptacle (figures 2 and 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the claimed torque tab and torque tab receptacle, as disclosed by Huss et al. (...637), since such tabs and receptacles are well known in the art to attach a hopper and waste bin.

***Prior Art***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Saitoh et al. (US 5,268,720), Kamijo et al. (US 5,298,952), Matsuura et al. (US 5,331,377), Masuda et al. (US 5,878,317) and Kondoh (US 5,907,752) disclose a toner cartridge including a hopper and a waste container.

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra L. Brase whose telephone number is (571) 272-2131. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T. Grimley, can be reached on (571) 272-2136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sandra L. Brase  
Primary Examiner  
Art Unit 2852

August 15, 2005